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10/539,464	06/21/2005	Scott Newman	1278-003Addh	6671
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EXAMINER				
PATEL, DHIRUBHAI R				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/539,464

**Applicant(s)**

NEWMAN, SCOTT

**Examiner**

DHIRU R. PATEL

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 6/21/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, an electrically conductive resilient member recited in claim 2, at least one retaining member recited in claim 4, a retainer recited in claim 11 and post contact means, shelf contact means and retaining means recited in claim 16 must be shown or the feature(s) canceled from the claim(s). The examiner suggests showing reference number for an electrically conductive resilient member, at least one retaining member, a retainer and post contact means, shelf contact means and retaining means. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 and 11-12 are rejected under 35 U.S.C. § 102(e) as being anticipated by de la Borbolla 96,986,673).

de la Borbolla discloses:

Regarding claim 1, a clip 10 (see figs 1-3 and column 5 lines 63-67), said clip comprising:

a main body 12 (see figs 1-3) having a first electrically conductive portion 14, 15 configured for making contact with a shelf, and a second electrically conductive portion 18,19 configured for making contact with a post 90 to thereby establish an electrically conductive path between said shelf and said post (see figs 1-3 and entire columns 5-8).

Regarding claim 2, considering the drawing objection , claim 2 is included in this rejection as best understood.

Regarding claim 3, wherein the main body further comprises at least one contact member 30 configured for making an electrical contact with said post (see fig 3), and at least one contact member 66 configured for making an electrical contact with said shelf (see fig 3).

Regarding claim 4, as best understood, including at least one retaining member 50 for retaining the clip in a position on the shelving unit such that an electrically conductive path is established from the shelf to the post through the clip (see fig 3).

Regarding claim 11, as best understood, a electrically conductive clip (see figs 1-3 and column 5 lines 63-67), comprising: a main body portion 12 (see fig 1); a first contact portion 66 (see fig 1); a second contact portion 24 (see fig 3); a retainer 50 (see fig 1); wherein said first and second contact portions and said retainer are in electrically connected to said main body portion (see fig 3).

Regarding claim 12, wherein said first contact portion is configured for making mechanical and electrical contact with said post and said second contact portion is configured for making mechanical and ' electrical contact with said shelf, and said retainer is configured for maintaining said first and second contact portions in mechanical and electrical contact with said post and shelf, respectively (see entire column 5). It is noted that the assembly of de la Borbolla meet the structural limitations.

3. Claims 1- 4, 6 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Davis et al (6,106,310).

Davis et al disclose:

Regarding claim 1, a clip 200 (see fig 2 and entire column 2), said clip comprising: a main body 202 (see fig 2) having a first electrically conductive portion 204 configured for making contact with a shelf, and a second electrically conductive portion 210 configured for making contact with a post to thereby establish an electrically conductive path between said shelf and said post (see fig 2).

Regarding claim 2, considering the drawing objection , claim 2 is included in this rejection as best understood.

Regarding claim 3, wherein the main body further comprises at least one contact member 222 configured for making an electrical contact with said post (see fig 2), and at least one contact member 218 configured for making an electrical contact with said shelf (see fig 2).

Regarding claim 4, as best understood, including at least one retaining member 216 for retaining the clip in a position on the shelving unit such that an electrically conductive path is established from the shelf to the post through the clip (see fig 2).

Regarding claim 6, two upwardly extending contact members 218, each configured for making contact with a selected either shelf or post (see fig 2).

Regarding claim 9, wherein the first and second electrically conductive members each comprise resilient C-shaped members, the first configured for connection to a post and

the second configured for connection to a shelf (see fig 2).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, and 13 -15 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Davis (6,106,310).

Regarding claim 5, Davis et al disclose all the features of the claimed invention as shown above, but fails to disclose said retaining member being made from a resilient material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Davis et al with said retaining member being made from a resilient material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Regarding claim 13, Davis et al disclose all the features of the claimed invention as shown above, but fails to disclose said main body portion, first and second contact portions and said retaining member being made from a resilient material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Davis with said main body portion, first and second contact portions and said retaining member being made from a resilient material, since it has

been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 14, the modified assembly of Davis et al discloses all the features of the claimed invention as shown above, wherein said retainer, further comprises a pair of hook members extending from said main body portion (see fig2).

Regarding claim 15, the modified assembly of Davis et al discloses all the features of the claimed invention as shown above, wherein said main body portion, said first and second contact portions and said retainer define a unitary member (see fig 2).

#### ***Allowable Subject Matter***

5. Claims 16 -20 would be allowable if rewritten or amended to overcome the drawing objection , set forth in this Office action.

6. Claims 7-8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reasons for the indication of the allowability of claims 16-20 are the inclusion therein, in combination as currently claimed, of the limitation of retaining means for retaining said post contact means in electrical contact with said post and said shelf contact means in electrical contact with said shelf.

The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

Contact Information



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DHIRU R. PATEL whose telephone number is 571-272-1983. The examiner can normally be reached on M-TH, 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DHIRU R PATEL/  
Primary Examiner, Art Unit 2831